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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 623/2022**

NUPUR RUSTAGI & ORS.

..... Plaintiffs

Through: Mr. Hari Kishan and Mr. Harshbir
Singh Kohli, Advocates.

versus

PRABODH KUMAR RUSTAGI & ORS.

..... Defendants

Through: Mr. Anil Sapra with Ms. Manjula
Gandhi and Mr. Rahul Dubey,
Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **12.10.2022**

I.A. 16606/2022 (for exemption)

1. Subject to the plaintiffs filing the clear and legible copies of any documents on which the plaintiffs may seek to place reliance, within four weeks from today, exemption is granted for the present.
2. The application is disposed of.

CAV 320/2022

3. Counsel for the caveator has entered appearance.
4. Accordingly, caveat stands discharged.

I.A. 16608/2022 (O-XXXII R-1 of CPC)

5. This application has been filed on behalf of the plaintiffs no.1 to 3 under Order XXXII Rules 1 and 4 of the Code of Civil Procedure, 1908 (CPC) seeking a direction that the plaintiff no.3 be appointed as the next



friend of the plaintiff no.4 to contest the present suit on behalf of the plaintiff no.4, who is a minor.

6. Counsel for the plaintiffs submits that the plaintiff no.3, being the father of the plaintiff no.4, would not have an interest in conflict with the interest of the plaintiff no.4.

7. The application is opposed by the counsels appearing on behalf of the defendants.

8. Issue notice.

9. Notice is accepted on behalf of the defendants.

10. Reply(ies) be filed within four weeks.

11. List before the Joint Registrar on 19th December, 2022.

12. List before the Court on 23rd February, 2023.

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13. Let the plaint be registered as a suit.

14. Issue summons in the suit. Summons are accepted by the counsels appearing on behalf of the defendants.

15. The written statement(s) shall be filed within thirty days from the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs.

16. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.

17. List before the Joint Registrar on 19th December, 2022 for completion of service and pleadings.



18. List before the Court on 23rd February, 2023.

I.A. 16607/2022 (O-XXXIX R-1 & 2 of CPC)

19. The present suit has been filed seeking partition and other ancillary reliefs in respect of the estate of late Smt. Sheela Devi, who was the maternal grandmother of the plaintiffs no.1, 2 and 4 and the mother in-law of the plaintiff no.3. The mother of the plaintiffs no.1, 2 and 4 had died *intestate* on 12th July, 2019, leaving behind the plaintiffs as her Class-I legal heirs.

20. Late Smt. Sheela Devi owned various movable and immovable properties, the details of which are given in paragraph 4 of the plaint. Smt. Sheela Devi died *intestate* on 28th January, 2020. Hence, the plaintiffs claim 1/4th share in the aforesaid properties of late Smt. Sheela Devi.

21. Senior counsel appearing on behalf of the defendants, on instructions, submits that Smt. Sheela Devi had executed a Will dated 20th January, 2020, wherein all the three immovable properties have been bequeathed in favour of the defendant no.2. He submits that on the basis of the said Will, Shop No.G-2, Ground Floor constructed on Plot No.11, at Savitiri Sadan-I, Preet Vihar, Community Centre Delhi-110092 has already been sold. He further submits that a sale deed in respect of the third floor of the property bearing no.G-324, Preet Vihar, Delhi-110092 has already been executed and registered.

22. Issue notice.

23. Notice is accepted on behalf of the defendants.

24. Reply(ies) be filed within four weeks.

25. Status quo with regard to title and possession of the remaining part of the property bearing no.G-324, Preet Vihar, Delhi-110092 and property



bearing no.53, Thandarai Village, Denkanikotta Taluk shall be maintained by the parties till the next date of hearing.

26. List before the Joint Registrar on 19th December, 2022.

27. List before the Court on 23rd February, 2023.

AMIT BANSAL, J.

OCTOBER 12, 2022

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